IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 24TH DECEMBER 2007 / 3RD POUSHA 1929

WP(C).No. 38116 of 2007(K)

PETITIONER:

PHILOMINA MATHEW, W/O. VARGHESE,
AGED 58 YEARS, RETIRED TEACHER, THENGAPURAKAL HOUSE, VARAPPUZHA P.O., VARAPPUZHA VILLAGE, PAROOR TALUK.

BY ADV. SRI.DENY JOSEPH

RESPONDENTS:

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1. SYNDICATE BANK,
BANERJI ROAD, ERNAKULAM, REPRESENTED BY ITS MANAGER.

2. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR, ERNAKULAM CIVIL STATION, KAKKANADU.

3. DEPUTY TAHASILDAR (R.R.),
TALUK OFFICE, PAROOR.

4. VILLAGE OFFICER,
VARAPPUZHA VILLAGE, VARAPPUZHA.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)NO.38116 OF 2007

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Dated this the 24th day of December 2007

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued under Section-7 of the Revenue Recovery Act. Petitioner is not the defaulter. Her husband had availed a loan from the first respondent and had defaulted repayment of the same. Her husband Sri.Varghese T.J. is employed in the Railways. According to the petitioner, as can be seen from Ext.P1, she is the owner in possession of 9 cents of land in Sy.37/9 of the Varapuzha Village. A residential building is constructed in the said property. She lives there along with her family. She contends that the movables kept in the house belongs to her. Nevertheless coercive proceedings under the Revenue Recovery Act are directed against the said movables, which do not belong to the defaulter, according to her.

2. In my view, petitioner's remedy lies in filing a claim petition before the revenue recovery authorities. There is adequate provision for the same under the provisions of the said Act. It is open to the petitioner to avail such remedy.

3. After having heard the learned Government Pleader also, the

writ petition is disposed of in the following terms:

1) The petitioner may file a representation in the form of a claim petition before the 4th respondent within a period of four weeks from today. She may also produce evidence to show that she is the owner of the movables kept in the house.

2) If such representation is filed within the time aforementioned, 4th respondent shall issue notice to the first respondent and the petitioner, conduct a suitable enquiry and decide on the claim petition filed by the petitioner. This shall be done within two months from the date of receipt of the representation as aforementioned. Pending adjudication of the claim made by the petitioner, enforcement of Ext.P3 shall be kept in abeyance, insofar as the movables kept in the petitioner's house situated in the property covered by Ext.P1 is concerned.

Petitioner shall produce a certified copy of the judgment along with the claim petition before the 4th respondent.

V.GIRI, JUDGE

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